Anti-corruption Standards and Mechanisms of the Council of Europe

6th Summer School for Junior Magistrates from South-Eastern Europe

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Outline

- Council of Europe anti-corruption approach and standards
- Brief overview of CoE Anti-corruption Standards
- Overview of GRECO
- GRECO evaluations and findings
- GRECO experiences
The Council of Europe’s approach to the fight against corruption

Standards setting: legal instruments (“hard” & “soft law”)

Multidisciplinary Approach

Monitoring compliance: GRECO

Technical Co-operation and Assistance
**Council of Europe’s Anti-corruption Standards**

- The Twenty Guiding Principles for the Fight against Corruption (1997)
- The Criminal Law Convention on Corruption (ETS 173, 1999)
- The Civil Law Convention on Corruption (ETS 174, 1999)
- Recommendation on Codes of Conduct for Public Officials (2000)
- Recommendation on Funding of Political Parties and Electoral Campaigns (2003)

**Monitoring: GRECO**
Ratifications Status

ETS 173: Criminal Law Convention; ETS 191: its Additional Protocol; ETS 174: Civil Law Convention

Status as of: 3/6/2011
Criminal Law Convention
Status as of 3/6/2011

- Signatures without ratification (7)
- Ratifications/accessions (43)
Brief overview of CoE anti-corruption standards:
20 Guiding Principles for the fight against corruption

Independence, autonomy and powers of authorities

Transparency in public administration
Public officials

Specialisation, means and training

A catalogue of anti-corruption measures

Legal persons
Fiscal legislation

Immunities

Proceeds of corruption
Money laundering

Codes of conduct, Media, research, etc.
Criminal Law Convention on Corruption

- Wide scope to combat corruption acts through criminal law instruments
- Co-ordinated criminalisation of a wide range of corruption related offences, including active and passive forms of bribery in the public and private sector, trading in influence, money laundering of proceeds from corruption, accounting offences
- Wide range of public officials (national and foreign)
- Complementary criminal law measures (i.e. jurisdiction, corporate liability, sanctions)
- International co-operation
Civil Law Convention on Corruption

- Civil remedies, compensation for damage resulting from corruption
- State responsibility
- Validity of contracts
- Civil law measures
- Protection of whistleblowers
GRECO Overview

Established in 1999

49 Member States

Partial and Enlarged Agreement of the Council of Europe

Established in 1999

International Monitoring Mechanism

Open to member and non-member states
GRECO Membership

![Graph showing the increase in GRECO membership from 21 in 1999 to 49 in 2011.](image)
GRECO Membership Map

1999
17 Founding States

2000 – 21 States
2001 – 32 States
2002 – 34 States
2003 – 35 States
2004 – 38 States
2005 – 39 States
2006 – 43 States
2007 – 46 States
2010 – 48 States

12
GRECO Objective

Monitoring Compliance

Identify Deficiencies

Prompt Reforms

Practices Lessons

Monitor **compliance** of anti-corruption efforts with the Council of Europe standards

Identify **deficiencies** in national anti-corruption policies

Prompt legislative, institutional and practical **reforms**

Provide for a **platform** to share best practice and lessons learned in the prevention, detection and repression of corruption
GRECO Working Methods

Mutual Evaluation
Peer Review

Follow-up Mechanism

Rigorous Compliance Procedure
GRECO Evaluations - Procedure

Collection of information by questionnaire

Scope - Specific provisions selected

Evaluation teams – Country Visits

Publication and translation into national language

Evaluation Report - Adoption
Compliance Procedure

**Situation Report**
- Provided by the country concerned
- 18 months after the evaluation

**Greco Plenary Hearing**
- Recommendations:
  - implemented satisfactorily;
  - partly implemented;
  - not implemented

- 18 more months

**Non-Compliance**
(Rule 32 of the Rules of Procedures)
- 1 case (1st evaluation round)
- 6 cases (3rd evaluation round)
Evaluation themes:

- Independence, autonomy and powers of persons or bodies in charge of preventing, prosecuting and adjudicating corruption offences
- Immunities from investigation, prosecution or adjudication of corruption offences
- Specialisation, means and training of persons or bodies in charge of fighting corruption

(Resolution (97) 24 “20 Guiding Principles”, principles 3, 6 and 7)
GRECO findings of the first evaluation round

3 main fields of necessary improvements:

- Substantive law
- Implementation of adopted legislation
- General topics important for the fight against corruption
GRECO Second Evaluation Round
(January 2003 – December 2006)

Evaluation themes:

- Identification, seizure and confiscation of the proceeds of corruption (including links between corruption, organized crime and money laundering)
- The role of the public administration, efficiency and transparency with regard to corruption
- Prevention of legal persons being used as shields for corruption, including tax and financial legislation to counter corruption

(Resolution (97) 24 “20 Guiding Principles” and Criminal Law Convention on Corruption ETS n° 173)
**GRECO findings of the second evaluation round**

Main fields of necessary improvements:

- Effectiveness of money laundering mechanisms
- Seizure and confiscation of corruption’s proceeds
- Conflict of interest
- Pantouflage/Revolving doors
- Whistleblowers’ protection
- Responsibility of legal persons
GRECO Third Evaluation Round
(January 2007 – ongoing)

Evaluation themes:

I. Incriminations on Corruption (Criminal Law Convention (ETS n° 173), its Additional Protocol (ETS n° 191) and GP 2 (Resolution (97) 24)

II. Transparency of Party Funding (Rec. 2003/4 on Common Rules against Corruption in the Funding of Political Parties and Electoral Campaigns)
Incriminations:

- Explicit criminalisation of bribery and trading in influence (TI) for foreign officials
  - foreign public officials, members of foreign public assemblies, officials of international organisations, members of international parliamentary assemblies, judges and officials of international courts

- Incriminations for national and foreign arbitrators and jurors

- Constitutive elements of different bribery and TI offences

- Sanctions applied i.e. statute of limitations
  - Low penalties for bribery offences (bribery in the private sector, TI, active forms)

- Abolishment of dual criminality requirement for corruption and trading in influence offences

- Jurisdiction for bribery and TI offences committed abroad

- Defences (automatic regret)
GRECO findings of the third evaluation round

**Political Financing:**

- Transparency of Political Funding
  - *Status*: similar obligations for political parties and candidates
  - *Donations*: Anonymous donations, threshold effects, contributions in kind, sponsorship, loans, rewards for public contracts
  - *Party accounts*: maintaining accounts, standards, content, scope, presentation, publication

- Monitoring the implementation of the legislation
  - Independence of the supervisory body, a single body, scope, resources…

- Sanctions
  - Inappropriate, weak, flexible sanctions, limited scope, lack of application
GRECO Fourth Evaluation Round

Corruption Prevention in respect of:

Members of Parliament
(regardless of the chamber of parliament, regardless of whether they are appointed or elected)

Judges and Prosecutors
(both professional and lay judges, regardless of the type of court in which they sit)

Starting: January 2012
GRECO Experience

- Increased Interest
- GRECO Work
- Exchange of Views
- Used by other partners (PACE, EU)
# Increased interest and visibility of GRECO

## Increased Interest
- Greater interest for specific topics (Political Financing)
- Translation into local languages
- Press Coverage

## Use of GRECO Results
- By PACE (Judicial Corruption, Protection of Whistleblowers)
- By EU services (key documents, financial assistance)

## Exchange of Views
- Periodical hearings of relevant stakeholders
  - (European Commission, EUROJUST, TI, UNODC, OLAF, EPAC, ICC, EHFCN, etc.)
Specific Thematic Experiences

- **2010**: Sponsoring
- **2009**: Trading in influence experience in France
- **2008**: Independent monitoring of party funding
- **2007**: Revolving doors/pantouflage
- **2006**: Protection of whistleblowers
- **2005**: The fight against corruption in public administration
- **2004**: Immunities of public officials
Difficulties encountered

- Different goals of member states
- Lower implementation rate of recommendations during the 3rd round
- Feeling of “unequal” treatment of member states
Conclusion

Cooperation

Culture

Role of

Media, Citizens & NGOs

Implementation of International Standards

Education Process
For further information:

www.coe.int/greco
Thank you for your attention

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Questions - Discussion